

Underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 401

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JERRY LEE ALWIN

AN ACT

RELATING TO CONTROLLED SUBSTANCES; AMENDING SECTIONS OF THE NMSA  
1978 TO CREATE A DRUG-FREE RESIDENTIAL ZONE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-31-2 NMSA 1978 (being Laws 1972,  
Chapter 84, Section 2, as amended) is amended to read:

"30-31-2. DEFINITIONS. --As used in the Controlled  
Substances Act:

A. "administer" means the direct application of a  
controlled substance by any means to the body of a patient or  
research subject by a practitioner or his agent;

B. "agent" includes an authorized person who acts on  
behalf of a manufacturer, distributor or dispenser. It does not  
include a common or contract carrier, public warehouseman or  
employee of the carrier or warehouseman;

1 C. "board" means the board of pharmacy;

2 D. "bureau" means the bureau of narcotics and  
3 dangerous drugs, United States department of justice, or its  
4 successor agency;

5 E. "controlled substance" means a drug or substance  
6 listed in Schedules I through V of the Controlled Substances Act  
7 or regulations adopted thereto;

8 F. "counterfeit substance" means a controlled  
9 substance that bears the unauthorized trademark, trade name,  
10 imprint, number, device or other identifying mark or likeness of  
11 a manufacturer, distributor or dispenser other than the person  
12 who in fact manufactured, distributed or dispensed the  
13 controlled substance;

14 G. "deliver" means the actual, constructive or  
15 attempted transfer from one person to another of a controlled  
16 substance or controlled substance analog, whether or not there  
17 is an agency relationship;

18 H. "dispense" means to deliver a controlled  
19 substance to an ultimate user or research subject pursuant to  
20 the lawful order of a practitioner, including the administering,  
21 prescribing, packaging, labeling or compounding necessary to  
22 prepare the controlled substance for that delivery;

23 I. "dispenser" means a practitioner who dispenses  
24 and includes hospitals, pharmacies and clinics where controlled  
25 substances are dispensed;

Underscored material = new  
[bracketed material] = delete

1           J. "distribute" means to deliver other than by  
2 administering or dispensing a controlled substance or controlled  
3 substance analog;

4           K. "drug" or "substance" means substances recognized  
5 as drugs in the official United States pharmacopoeia, official  
6 homeopathic pharmacopoeia of the United States or official  
7 national formulary or any respective supplement to [~~these~~] those  
8 publications. It does not include devices or their components,  
9 parts or accessories;

10           L. "hashish" means the resin extracted from any part  
11 of marijuana, whether growing or not, and every compound,  
12 manufacture, salt, derivative, mixture or preparation of such  
13 resins;

14           M "manufacture" means the production, preparation,  
15 compounding, conversion or processing of a controlled substance  
16 or controlled substance analog by extraction from substances of  
17 natural origin or independently by means of chemical synthesis  
18 or by a combination of extraction and chemical synthesis and  
19 includes any packaging or repackaging of the substance or  
20 labeling or relabeling of its container, except that this term  
21 does not include the preparation or compounding of a controlled  
22 substance:

23                   (1) by a practitioner as an incident to his  
24 administering or dispensing of a controlled substance in the  
25 course of his professional practice; or

1 (2) by a practitioner, or by his agent under  
2 his supervision, for the purpose of or as an incident to  
3 research, teaching or chemical analysis and not for sale;

4 N. "marijuana" means all parts of the plant  
5 Cannabis, including any and all varieties, species and  
6 subspecies of the genus Cannabis, whether growing or not, the  
7 seeds thereof and every compound, manufacture, salt, derivative,  
8 mixture or preparation of the plant or its seeds. It does not  
9 include the mature stalks of the plant, hashish,  
10 tetrahydrocannabinols extracted or isolated from marijuana,  
11 fiber produced from the stalks, oil or cake made from the seeds  
12 of the plant, any other compound, manufacture, salt, derivative,  
13 mixture or preparation of the mature stalks, fiber, oil or cake,  
14 or the sterilized seed of the plant that is incapable of  
15 germination;

16 O. "narcotic drug" means any of the following,  
17 whether produced directly or indirectly by extraction from  
18 substances of vegetable origin or independently by means of  
19 chemical synthesis or by a combination of extraction and  
20 chemical synthesis:

21 (1) opium and opiate and any salt, compound,  
22 derivative or preparation of opium or opiate;

23 (2) any salt, compound, isomer, derivative or  
24 preparation that is a chemical equivalent of any of the  
25 substances referred to in Paragraph (1) of this subsection,

Underscored material = new  
[bracketed material] = delete

1 except the isoquinoline alkaloids of opium;

2 (3) opium poppy and poppy straw, including all  
3 parts of the plant of the species *Papaver somniferum* L. except  
4 its seeds; or

5 (4) coca leaves and any salt, compound,  
6 derivative or preparation of coca leaves, any salt, compound,  
7 isomer, derivative or preparation that is a chemical equivalent  
8 of any of these substances except decocainized coca leaves or  
9 extractions of coca leaves that do not contain cocaine or  
10 [~~ecgonine~~] ecgonine;

11 P. "opiate" means any substance having an addiction-  
12 forming or addiction-sustaining liability similar to morphine or  
13 being capable of conversion into a drug having addiction-forming  
14 or addiction-sustaining liability. Opiate does not include,  
15 unless specifically designated as controlled under Section  
16 30-31-5 NMSA 1978, the dextrorotatory isomer of 3-methoxy-n-  
17 methylmorphinan and its salts (dextromethorphan). "Opiate" does  
18 include its racemic and levorotatory forms;

19 Q. "person" includes a partnership, corporation,  
20 association, institution, political subdivision, government  
21 agency or other legal entity;

22 R. "practitioner" means a physician, dentist,  
23 veterinarian or other person licensed to prescribe and  
24 administer drugs that are subject to the Controlled Substances  
25 Act;

. 113588.5

Underscored material = new  
[bracketed material] = delete

1           S. "prescription" means an order given individually  
2 for the person for whom is prescribed a controlled substance,  
3 either directly from the prescriber to the pharmacist or  
4 indirectly by means of a written order signed by the prescriber,  
5 [and] in accordance with the Controlled Substances Act or  
6 regulations adopted thereto;

7           T. "scientific investigator" means a person  
8 registered to conduct research with controlled substances in the  
9 course of his professional practice or research and includes  
10 analytical laboratories;

11           U. "ultimate user" means a person who lawfully  
12 possesses a controlled substance for his own use or for the use  
13 of a member of his household or for [administering]  
14 administration to an animal under the care, custody and control  
15 of the person or by a member of his household;

16           V. "drug paraphernalia" means all equipment,  
17 products and materials of any kind that are used, intended for  
18 use or designed for use in planting, propagating, cultivating,  
19 growing, harvesting, manufacturing, compounding, converting,  
20 producing, processing, preparing, testing, analyzing, packaging,  
21 repackaging, storing, containing, concealing, injecting,  
22 ingesting, inhaling or otherwise introducing into the human body  
23 a controlled substance or controlled substance analog in  
24 violation of the Controlled Substances Act. It includes but is  
25 not limited to:

1                   (1) kits used, intended for use or designed for  
2 use in planting, propagating, cultivating, growing or harvesting  
3 any species of plant that is a controlled substance or  
4 controlled substance analog or from which a controlled substance  
5 can be derived;

6                   (2) kits used, intended for use or designed for  
7 use in manufacturing, compounding, converting, producing,  
8 processing or preparing controlled substances or controlled  
9 substance analogs;

10                   (3) isomerization devices used, intended for  
11 use or designed for use in increasing the potency of any species  
12 of plant that is a controlled substance;

13                   (4) testing equipment used, intended for use or  
14 designed for use in identifying or in analyzing the strength,  
15 effectiveness or purity of controlled substances or controlled  
16 substance analogs;

17                   (5) scales or balances used, intended for use  
18 or designed for use in weighing or measuring controlled  
19 substances or controlled substance analogs;

20                   (6) diluents and adulterants, such as quinine  
21 hydrochloride, mannitol, mannite dextrose and lactose, used,  
22 intended for use or designed for use in cutting controlled  
23 substances or controlled substance analogs;

24                   (7) separation gins and sifters used, intended  
25 for use or designed for use in removing twigs and seeds from or

1 in otherwise cleaning and refining marijuana;

2 (8) blenders, bowls, containers, spoons and  
3 mixing devices used, intended for use or designed for use in  
4 compounding controlled substances or controlled substance  
5 analogs;

6 (9) capsules, balloons, envelopes and other  
7 containers used, intended for use or designed for use in  
8 packaging small quantities of controlled substances or  
9 controlled substance analogs;

10 (10) containers and other objects used,  
11 intended for use or designed for use in storing or concealing  
12 controlled substances or controlled substance analogs;

13 (11) hypodermic syringes, needles and other  
14 objects used, intended for use or designed for use in  
15 parenterally injecting controlled substances or controlled  
16 substance analogs into the human body;

17 (12) objects used, intended for use or designed  
18 for use in ingesting, inhaling or otherwise introducing  
19 marijuana, cocaine, hashish or hashish oil into the human body,  
20 such as:

21 (a) metal, wooden, acrylic, glass, stone,  
22 plastic or ceramic pipes, with or without screens, permanent  
23 screens, hashish heads or punctured metal bowls;

24 (b) water pipes;

25 (c) carburetion tubes and devices;

- 1 (d) smoking and carburetion masks;
- 2 (e) roach clips, meaning objects used to
- 3 hold burning material, such as a marijuana cigarette, that has
- 4 become too small to hold in the hand;
- 5 (f) miniature cocaine spoons and cocaine
- 6 vials;
- 7 (g) chamber pipes;
- 8 (h) carburetor pipes;
- 9 (i) electric pipes;
- 10 (j) air-driven pipes;
- 11 (k) chilams;
- 12 (l) bongs; or
- 13 (m) ice pipes or chillers; and
- 14 (13) in determining whether an object is drug
- 15 paraphernalia, a court or other authority should consider, in
- 16 addition to all other logically relevant factors, the following:
- 17 (a) statements by the owner or by anyone
- 18 in control of the object concerning its use;
- 19 (b) the proximity of the object, in time
- 20 and space, to a direct violation of the Controlled Substances
- 21 Act or any other law relating to controlled substances or
- 22 controlled substance analogs;
- 23 (c) the proximity of the object to
- 24 controlled substances or controlled substance analogs;
- 25 (d) the existence of any residue of a

1 controlled substance or controlled substance analog on the  
2 object;

3 (e) instructions, written or oral,  
4 provided with the object concerning its use;

5 (f) descriptive materials accompanying  
6 the object that explain or depict its use;

7 (g) the manner in which the object is  
8 displayed for sale; and

9 (h) expert testimony concerning its use;

10 W. "controlled substance analog" means a substance  
11 other than a controlled substance that has a chemical structure  
12 substantially similar to that of a controlled substance in  
13 Schedule I, II, III, IV or V or that was specifically designed  
14 to produce effects substantially similar to that of controlled  
15 substances in Schedule I, II, III, IV or V. Examples of  
16 chemical classes in which controlled substance analogs are found  
17 include but are not limited to the following:

- 18 (1) phenethyl amines;
- 19 (2) N-substituted piperidines;
- 20 (3) morphinans;
- 21 (4) [~~ecgonines~~] ecgonines;
- 22 (5) quinazolinones;
- 23 (6) substituted indoles; and
- 24 (7) arylcycloalkyl amines.

25 Specifically excluded from the definition of "controlled

Underscored material = new  
[bracketed material] = delete

1 substance analog" are those substances that are generally  
2 recognized as safe and effective within the meaning of the  
3 Federal Food, Drug and Cosmetic Act or have been manufactured,  
4 distributed or possessed in conformance with the provisions of  
5 an approved new drug application or an exemption for  
6 investigational use within the meaning of Section 505 of the  
7 Federal Food, Drug and Cosmetic Act;

8 X. "human consumption" includes application,  
9 injection, inhalation, ingestion or any other manner of  
10 introduction whatsoever; [~~and~~]

11 Y. "drug-free school zone" means any public school  
12 or property that is used for public school purposes and the area  
13 within one thousand feet of the school property line, but it  
14 does not mean any post-secondary school; and

15 Z. "drug-free residential zone" means a dwelling  
16 designed and used as a residence, including manufactured homes,  
17 condominiums and apartments, and the area within one thousand  
18 feet of the exterior boundary of the dwelling."

19 Section 2. Section 30-31-20 NMSA 1978 (being Laws 1972,  
20 Chapter 84, Section 20, as amended) is amended to read:

21 "30-31-20. TRAFFICKING CONTROLLED SUBSTANCES-- VIOLATION. --

22 A. As used in the Controlled Substances Act,  
23 "traffic" means the:

24 (1) manufacture of any controlled substance  
25 enumerated in Schedules I through V or any controlled substance

. 113588.5

Underscored material = new  
[bracketed material] = delete

1 analog as defined in Subsection W of Section 30-31-2 NMSA 1978;

2 (2) distribution, sale, barter or giving away  
3 of any controlled substance enumerated in Schedule I or II that  
4 is a narcotic drug or a controlled substance analog of a  
5 controlled substance enumerated in Schedule I or II that is a  
6 narcotic drug; or

7 (3) possession with intent to distribute any  
8 controlled substance enumerated in Schedule I or II that is a  
9 narcotic drug or controlled substance analog of a controlled  
10 substance enumerated in Schedule I or II that is a narcotic  
11 drug.

12 B. Except as authorized by the Controlled Substances  
13 Act, it is unlawful for any person to intentionally traffic.  
14 Any person who violates this subsection is:

15 (1) for the first offense, guilty of a second  
16 degree felony and shall be sentenced pursuant to the provisions  
17 of Section 31-18-15 NMSA 1978; and

18 (2) for the second and subsequent offenses,  
19 guilty of a first degree felony and shall be sentenced pursuant  
20 to the provisions of Section 31-18-15 NMSA 1978.

21 C. Any person who knowingly violates Subsection B of  
22 this section within a drug-free school zone [~~excluding private~~  
23 ~~property residentially zoned or used primarily as a residence~~]  
24 or a drug-free residential zone is guilty of a first degree  
25 felony and shall be sentenced pursuant to the provisions of

. 113588.5

Underscored material = new  
[bracketed material] = delete

1 Section 31-18-15 NMSA 1978. "

2 Section 3. Section 30-31-22 NMSA 1978 (being Laws 1972,  
3 Chapter 84, Section 22, as amended) is amended to read:

4 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--  
5 DISTRIBUTION PROHIBITED. --

6 A. Except as authorized by the Controlled Substances  
7 Act, it is unlawful for any person to intentionally distribute  
8 or possess with intent to distribute a controlled substance or a  
9 controlled substance analog except a substance enumerated in  
10 Schedule I or II that is a narcotic drug or a controlled  
11 substance analog of a controlled substance enumerated in  
12 Schedule I or II that is a narcotic drug. Any person who  
13 violates this subsection with respect to:

14 (1) marijuana is:

15 (a) for the first offense, guilty of a  
16 fourth degree felony and shall be sentenced pursuant to the  
17 provisions of Section 31-18-15 NMSA 1978;

18 (b) for the second and subsequent  
19 offenses, guilty of a third degree felony and shall be sentenced  
20 pursuant to the provisions of Section 31-18-15 NMSA 1978;

21 (c) for the first offense, if more than  
22 one hundred pounds is possessed with intent to distribute or  
23 distributed or both, guilty of a third degree felony and shall  
24 be sentenced pursuant to the provisions of Section 31-18-15 NMSA  
25 1978; and

. 113588.5

Underscored material = new  
[bracketed material] = delete

1 (d) for the second and subsequent  
2 offenses, if more than one hundred pounds is possessed with  
3 intent to distribute or distributed or both, guilty of a second  
4 degree felony and shall be sentenced pursuant to the provisions  
5 of Section 31-18-15 NMSA 1978;

6 (2) any other controlled substance enumerated in  
7 Schedule I, II, III or IV or a controlled substance analog of a  
8 controlled substance enumerated in Schedule I, II, III or IV  
9 except a substance enumerated in Schedule I or II that is a  
10 narcotic drug or a controlled substance analog of a controlled  
11 substance enumerated in Schedule I or II that is a narcotic  
12 drug, is:

13 (a) for the first offense, guilty of a third  
14 degree felony and shall be sentenced pursuant to the provisions  
15 of Section 31-18-15 NMSA 1978; and

16 (b) for the second and subsequent offenses,  
17 guilty of a second degree felony and shall be sentenced pursuant  
18 to the provisions of Section 31-18-15 NMSA 1978; and

19 (3) a controlled substance enumerated in Schedule  
20 V or a controlled substance analog of a controlled substance  
21 enumerated in Schedule V is guilty of a misdemeanor and shall be  
22 punished by a fine of not less than one hundred dollars (\$100)  
23 or more than five hundred dollars (\$500) or by imprisonment for  
24 a definite term not less than one hundred eighty days but less  
25 than one year, or both.

Underscored material = new  
[bracketed material] = delete

1           B. Except as authorized by the Controlled Substances  
2 Act, it is unlawful for any person to intentionally create or  
3 deliver, or possess with intent to deliver, a counterfeit  
4 substance. Any person who violates this subsection with respect  
5 to:

6                   (1) a counterfeit substance enumerated in  
7 Schedule I, II, III or IV is guilty of a fourth degree felony  
8 and shall be sentenced pursuant to the provisions of Section  
9 31-18-15 NMSA 1978; and

10                   (2) a counterfeit substance enumerated in  
11 Schedule V is guilty of a petty misdemeanor and shall be  
12 punished by a fine of not more than one hundred dollars (\$100)  
13 or by imprisonment for a definite term not to exceed six months,  
14 or both.

15           C. Any person who knowingly violates Subsection A or B  
16 of this section while within a drug-free school zone [~~excluding~~  
17 ~~private property residentially zoned or used primarily as a~~  
18 ~~residence~~] or a drug-free residential zone with respect to:

19                   (1) marijuana is:

20                           (a) for the first offense, guilty of a third  
21 degree felony and shall be sentenced pursuant to the provisions  
22 of Section 31-18-15 NMSA 1978;

23                           (b) for the second and subsequent offenses,  
24 guilty of a second degree felony and shall be sentenced pursuant  
25 to the provisions of Section 31-18-15 NMSA 1978;

Underscored material = new  
[bracketed material] = delete

1 (c) for the first offense, if more than one  
2 hundred pounds is possessed with intent to distribute or  
3 distributed or both, guilty of a second degree felony and shall  
4 be sentenced pursuant to the provisions of Section 31-18-15 NMSA  
5 1978; and

6 (d) for the second and subsequent offenses,  
7 if more than one hundred pounds is possessed with intent to  
8 distribute or distributed or both, guilty of a first degree  
9 felony and shall be sentenced pursuant to the provisions of  
10 Section 31-18-15 NMSA 1978;

11 (2) any other controlled substance enumerated in  
12 Schedule I, II, III or IV or a controlled substance analog of a  
13 controlled substance enumerated in Schedule I, II, III or IV  
14 except a substance enumerated in Schedule I or II that is a  
15 narcotic drug or a controlled substance analog of a controlled  
16 substance [~~enumerated~~] enumerated in Schedule I or II that is a  
17 narcotic drug, is:

18 (a) for the first offense, guilty of a second  
19 degree felony and shall be sentenced pursuant to the provisions  
20 of Section 31-18-15 NMSA 1978; and

21 (b) for the second and subsequent offenses,  
22 guilty of a first degree felony and shall be sentenced pursuant  
23 to the provisions of Section 31-18-15 NMSA 1978;

24 (3) a controlled substance enumerated in Schedule  
25 V or a controlled substance analog of a controlled substance

Underscored material = new  
[bracketed material] = delete

1 enumerated in Schedule V is guilty of a fourth degree felony and  
2 shall be sentenced pursuant to the provisions of Section  
3 31-18-15 NMSA 1978; and

4 (4) the intentional creation, delivery or  
5 possession with the intent to deliver:

6 (a) a counterfeit substance enumerated in  
7 Schedule I, II, III or IV is guilty of a third degree felony and  
8 shall be sentenced pursuant to the provisions of Section  
9 31-18-15 NMSA 1978; and

10 (b) a counterfeit substance enumerated in  
11 Schedule V is guilty of a misdemeanor and shall be punished by a  
12 fine of not less than one hundred dollars (\$100) nor more than  
13 five hundred dollars (\$500) or by imprisonment for a definite  
14 term not less than one hundred eighty days but less than one  
15 year, or both.

16 D. Notwithstanding the provisions of Subsection A of  
17 this section, distribution of a small amount of marijuana for no  
18 remuneration shall be treated as provided in Paragraph (3) of  
19 Subsection B of Section 30-31-23 NMSA 1978. "

20 Section 4. Section 30-31-23 NMSA 1978 (being Laws 1972,  
21 Chapter 84, Section 23, as amended by Laws 1990, Chapter 19,  
22 Section 5 and also by Laws 1990, Chapter 33, Section 1) is  
23 amended to read:

24 "30-31-23. CONTROLLED SUBSTANCES-- POSSESSION PROHIBITED. --

25 A. It is unlawful for any person intentionally to

1 possess a controlled substance unless the substance was obtained  
2 pursuant to a valid prescription or order of a practitioner  
3 while acting in the course of his professional practice or  
4 except as otherwise authorized by the Controlled Substances Act.  
5 It is unlawful for any person intentionally to possess a  
6 controlled substance analog.

7 B. Any person who violates this section with respect  
8 to:

9 (1) one ounce or less of marijuana is, for the  
10 first offense, guilty of a petty misdemeanor and shall be  
11 punished by a fine of not less than fifty dollars (\$50.00) or  
12 more than one hundred dollars (\$100) and by imprisonment for not  
13 more than fifteen days, and, for the second and subsequent  
14 offenses, guilty of a misdemeanor and shall be punished by a  
15 fine of not less than one hundred dollars (\$100) or more than  
16 one thousand dollars (\$1,000) or by imprisonment for a definite  
17 term less than one year, or both;

18 (2) more than one ounce and less than eight  
19 ounces of marijuana is guilty of a misdemeanor and shall be  
20 punished by a fine of not less than one hundred dollars (\$100)  
21 or more than one thousand dollars (\$1,000) or by imprisonment  
22 for a definite term less than one year, or both; or

23 (3) eight ounces or more of marijuana is guilty  
24 of a fourth degree felony and shall be sentenced pursuant to the  
25 provisions of Section 31-18-15 NMSA 1978.

Underscored material = new  
[bracketed material] = delete

1 C. Except for those substances listed in Subsection D  
2 of this section, any person who violates this section with  
3 respect to any amount of any controlled substance enumerated in  
4 Schedule I, II, III or IV or a controlled substance analog of a  
5 substance enumerated in Schedule I, II, III or IV is guilty of a  
6 misdemeanor and shall be punished by a fine of not less than  
7 five hundred dollars (\$500) or more than one thousand dollars  
8 (\$1,000) or by imprisonment for a definite term less than one  
9 year, or both.

10 D. Any person who violates this section with respect  
11 to phencyclidine as enumerated in Schedule III or a controlled  
12 substance analog of phencyclidine; methamphetamine, its salts,  
13 isomers or salts of isomers as enumerated in Schedule II or a  
14 controlled substance analog of methamphetamine, its salts,  
15 isomers or salts of isomers; or a narcotic drug enumerated in  
16 Schedule I or II or a controlled substance analog of a narcotic  
17 drug enumerated in Schedule I or II is guilty of a fourth degree  
18 felony and shall be sentenced pursuant to the provisions of  
19 Section 31-18-15 NMSA 1978.

20 E. Any person who knowingly violates Subsection A of  
21 this section while within a drug-free school zone or a drug-free  
22 residential zone, excluding any person in or on a motor vehicle  
23 in transit through the drug-free school zone or the drug-free  
24 residential zone, with respect to:

25 (1) one ounce or less of marijuana is, for the

1 first offense, guilty of a misdemeanor and shall be punished by  
2 a fine of not less than one hundred dollars (\$100) or more than  
3 one thousand dollars (\$1,000) or by imprisonment for a definite  
4 term less than one year, or both, and for the second or  
5 subsequent offense, is guilty of a fourth degree felony and  
6 shall be sentenced pursuant to the provisions of Section  
7 31-18-15 NMSA 1978;

8 (2) more than one ounce and less than eight  
9 ounces of marijuana is guilty of a fourth degree felony and  
10 shall be sentenced pursuant to the provisions of Section  
11 31-18-15 NMSA 1978;

12 (3) eight ounces or more of marijuana is guilty  
13 of a third degree felony and shall be sentenced pursuant to the  
14 provisions of Section 31-18-15 NMSA 1978;

15 (4) any amount of any other controlled substance  
16 enumerated in Schedule I, II, III or IV or a controlled  
17 substance analog of a substance enumerated in Schedule I, II,  
18 III or IV, except phencyclidine as enumerated in Schedule III or  
19 a narcotic drug enumerated in Schedule I or II or a controlled  
20 substance analog of a narcotic drug enumerated in Schedule I or  
21 II, is guilty of a fourth degree felony and shall be sentenced  
22 pursuant to the provisions of Section 31-18-15 NMSA 1978; and

23 (5) phencyclidine as enumerated in Schedule III  
24 or a narcotic drug enumerated in Schedule I or II or a  
25 controlled substance analog of phencyclidine or a controlled

Underscored material = new  
[bracketed material] = delete

1 substance analog of a narcotic drug enumerated in Schedule I or  
2 II is guilty of a third degree felony and shall be sentenced  
3 pursuant to the provisions of Section 31-18-15 NMSA 1978."

4 - 21 -

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 3, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 401

has had it under consideration and reports same with  
recommendation that it DO PASS, amended as follows:

1. On page 11, line 11, between "public" and "school" insert  
"or private".

2. On page 11, line 12, strike "that is" and "public".

3. On page 11, lines 13 and 14, strike ", but it does not  
mean any post-secondary school".

4. On page 19, strike lines 20 through 25.

5. On page 20, strike lines 1 through 25.

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HJC/HB 401

Page 23

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

6. On page 21, strike lines 1 through 3.,

and thence referred to the APPROPRIATIONS AND FINANCE  
COMMI TTEE.

Respectfully submitted,

\_\_\_\_\_  
Thomas P. Foy, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Ri os, Sanchez

Absent: None

116463.1

M \H0401

. 113588.5

# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 18, 1997

Mr. Speaker:

Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
whom has been referred

HOUSE BILL 401, as amended

has had it under consideration and reports same with  
recommendation that it DO PASS.

Respectfully submitted,

---

Max Coll, Chairman

Underscored material = new  
[bracketed material] = delete

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 14 For 0 Against

Yes: 14

Excused: Abeyta, Picraux, Salazar

Absent: None

M \H0401

Underscored material = new  
~~[bracketed material] = delete~~